

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND**
Greenbelt Division

IN RE:

Amir H. Dariani

aka Amir Hoseein Ebrahimi Dariani

Debtor

Case No. 15-23363-DK

Ocwen Loan Servicing, LLC as servicer for Deutsche
Bank National Trust Company, as Trustee for Saxon Asset
Securities Trust 2007-1 Mortgage Loan Asset Backed
Certificates, Series 2007-1

Movant,

vs.

Chapter 13

Amir H. Dariani

aka Amir Hoseein Ebrahimi Dariani

Debtor

and

Maleehee E. Dariani

Co-Debtor

**MOTION FOR RELIEF FROM AUTOMATIC STAY AND CO-DEBTOR STAY ON
REAL PROPERTY LOCATED AT 502 KING FARM BOULEVARD, #304,
ROCKVILLE, MARYLAND 20850**

COMES NOW, Ocwen Loan Servicing, LLC as servicer for Deutsche Bank National
Trust Company, as Trustee for Saxon Asset Securities Trust 2007-1 Mortgage Loan Asset
Backed Certificates, Series 2007-1 (hereinafter “Movant”), its assigns and/or its successors in
interest, by and through counsel, moves for relief from the automatic stay of 11 U.S.C. § 362(a)
and 11 U.S.C. § 1301 pursuant to Fed. R. Bankr. P. Rules 4001, 9014, and Maryland Local
Bankr. Rule 4001-1, and respectfully represents as follows:

1. Jurisdiction is based on 28 U.S.C. §§ 157 and 1334 of the United States Bankruptcy Code. The relief requested may be granted in accordance with the provisions of 11 U.S.C. §§ 105(a) and 362(d) and pursuant to Fed. Bank. Proc. Rules 9013 and 4001.

2. On or about September 25, 2015, Amir H. Dariani (hereinafter “Debtor”) filed a voluntary petition in this Court under Chapter 13 of the United States Bankruptcy Code.

3. Timothy P. Branigan is the duly appointed Chapter 13 Trustee of the Debtor’s bankruptcy estate.

4. Maleehee E. Dariani is the Co-Debtor.

5. At the time of initiation of the bankruptcy proceedings, the Debtor owned a parcel of real estate located in Montgomery County, Maryland, and improved by a residence known as 502 King Farm Boulevard, #304, Rockville, Maryland 20850 (hereinafter the “Property”).

6. Movant is a secured creditor of the Debtor and the Movant’s interest is evidenced by a Note dated October 26, 2006, and executed by Amir Dariani, in the original principal amount of \$345,000.00, with interest at the original note rate of 8.450%. As required by Maryland Local Bankr. Rule 4001-1(b)(4), a copy of the promissory note is attached hereto.

7. Deutsche Bank National Trust Company, as Trustee for Saxon Asset Securities Trust 2007-1 Mortgage Loan Asset Backed Certificates, Series 2007-1 has the right to foreclose because: Deutsche Bank National Trust Company, as Trustee for Saxon Asset Securities Trust 2007-1 Mortgage Loan Asset Backed Certificates, Series 2007-1, is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. The promissory note is either made payable to Deutsche Bank National Trust Company, as Trustee for Saxon Asset Securities Trust 2007-1 Mortgage Loan Asset Backed Certificates, Series 2007-1 or has been duly endorsed.

8. Said promissory note is secured by a certain Deed of Trust also dated October 26, 2006 and recorded in the land records of Montgomery County, Maryland, related to the subject Property. As required by Maryland Local Bankr. Rule 4001-1(b)(4), a copy of the deed of trust is attached hereto.

9. Movant now seeks relief from the automatic stay against the Debtor pursuant to 11 U.S.C. § 362(d) and Maryland Local Bankr. Rule 3070-1(a) for Debtor's failure to maintain post-petition adequate protection payments to Movant as required by the aforementioned promissory note and deed of trust. Maryland Local Bankr. Rule 4001-1(b)(5).

10. A statement of Debtor's accrued post-petition payment arrears, required by Maryland Local Bankr. Rule 4001-1(b)(2), is as follows: (a) October 1, 2015 through November 1, 2015 payments of \$2,106.19 each for a subtotal of \$4,212.38; December 1, 2015 through January 1, 2016 payments of \$2,135.41 each for a subtotal of \$4,270.82; (b) Movant has incurred attorney fees of \$850.00 and filing cost of \$176.00 associated with the present motion for a subtotal of \$1,026.00. Consequently, as of the filing date of the present motion, the total post-petition arrearage, inclusive of motion legal fees and costs, is \$9,509.20.

11. As of January 13, 2016, a detailed statement of debt, required by Maryland Local Bankr. Rule 4001-1(b)(1), is itemized as follows:

Unpaid Principal Balance	\$343,782.00
Accrued Interest	\$142,411.70
Late Fees	\$1,843.19
Pre-petition Credit	(\$2,174.81)
Escrow Advance Balance	\$23,871.32
Corporate Advance Balance	<u>\$7,473.62</u>
Total:	\$517,207.02

This statement of debt is not equivalent to a verified payoff statement. If you wish to receive a verified payoff statement you must request one directly from the lender.

12. The Movant avers that there is no equity in the Property because the total liens

against the Property exceeds its fair market value. Debtor's Schedule D lists the market value of the Property as \$355,856.00. Maryland Bankr. Rule 4001-1(b)(6).

13. Movant lacks adequate protection of its interest in the Property and Movant continues to be irreparably injured by the stay of 11 U.S.C. § 362(a) and 1301(a).

14. Cause exists for terminating the automatic stay imposed by 11 U.S.C. § 362(a) and 1301(a) to enable Movant to avail itself of its rights and remedies under its promissory note, security instrument, and state law, including but not limited to the commencement of foreclosure proceedings against the Property. Maryland Local Bankr. Rule 4001-1(b)(7).

15. Cause also exists for terminating the co-debtor stay imposed by 11 U.S.C. § 1301(a) as the Debtor's Plan does not propose to pay the aforementioned arrearages, described at ¶ 11 *supra*, and the Movant is therefore entitled to relief pursuant to 11 U.S.C. §§ 1301(c)(2) and (c)(3).

16. In the event the automatic stay under 11 U.S.C. § 362(a) is terminated as to the subject Property, Movant may, at its discretion, discuss, offer and enter into any potential non-bankruptcy loss mitigation agreements, such as a forbearance agreement, a deed-in-lieu agreement or a loan modification agreement, with the Debtor.

WHEREFORE, the Movant, its assigns and/or successors-in-interest prays that this Court:

1. Enter an order terminating the automatic stay imposed by 11 U.S.C. § 362(a) and 11 U.S.C. § 1301(a) of the United States Bankruptcy Code to enable Movant to avail itself of its rights and remedies under the promissory note, deed of trust, and state law, including but not limited to the initiation of foreclosure proceedings against the property located at 502 King Farm Boulevard, #304, Rockville, MD 20850 and to allow successful purchaser to obtain possession of same; and,

2. Movant further prays that Ocwen Loan Servicing LLC, through its agents, servicers and representatives be permitted to contact Debtor and/or Debtor's counsel for the purpose of engaging in discussions and consideration for possible loss mitigation options,

solutions and/or resolutions with regard to the underlying mortgage and note, including, but not limited to loan modification or other loss mitigation alternatives.

3. Grant such other and further relief as may be just and necessary.

Date: February 3, 2016

Respectfully submitted,

/s/ Gene Jung, Esq.

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Counsel for Movant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this "3; th day of February , 2016, to the extent that the following person(s) were not served electronically *via* the CM/ECF system, a copy of the foregoing Motion for Relief from Automatic Stay and Co-Debtor Stay, was mailed by first class, postage prepaid, to:

Michael A. Ostroff, Esq.
Executive Court
1738 Elton Road, Suite 105
Silver Spring, MD 20903
Counsel for Debtor

Timothy P. Branigan
14502 Greenview Drive
Suite 506
Laurel, MD 20708
Chapter 13 Trustee

Amir H. Dariani
502 King Farm Blvd., Apt 304
Rockville, MD 20850
Debtor

Maleehee E. Dariani
502 King Farm Blvd., Apt 304
Rockville, MD 20850
Co-Debtor

/s/ Danielle Vasquez
Danielle Vasquez